

REMARKS

The application has been amended and is believed to be in condition for allowance.

The indication that claim 13 would be allowed if amended into independent form and further amended to overcome the rejection under 35 USC 112, second paragraph is acknowledged with thanks. The further indication that claims 14-17 would also be allowed as being dependent from allowable claim 13 is also gratefully acknowledged.

Amendments to the Disclosure

Claims 6 and 13-15 are canceled, without prejudice.

Claims 1, 3-5, 9, 11-12, 16-18, and 27 are amended.

Claims 33-35 are new.

The amendments and new claims find support in the application as originally filed.

For example, claim 1 is amended to recite the crash bar as comprising a "member of longitudinally extending profiled section," based on the specification at page 1 line 34 to page 2 line 1, and the corresponding passage in the original French-language description of the invention. The present invention is a National Stage of PCT/FR05/00211, published as WO 2005/075767 (hereinafter, "French specification"), a certified copy of which was filed August 1, 2006.

The French specification, at page 2, lines 4-7, provides as follows: "caractérisé en ce que ladite barre d'appui

est un profilé monté articulé autour dudit axe longitudinal par une portion d'articulation," (emphasis added). It is respectfully submitted that the term "longitudinally extending profiled section" is a correct translation of the French term "profilé" of the original French specification.

New independent claim 34 is introduced to recite the invention based on an alternate translation of the French term profilé. It is respectfully submitted that the English term "extruded profile" is a proper translation of the French term profilé as used in the French specification.

Accordingly, it is respectfully submitted that the foregoing terms reciting the crash bar is proper and do not introduce new matter. The dependent claims are amended to incorporate these terms.

The amendments to claim 1 find further support in the specification and the drawing figures, including but not limited to page 7, lines 9-11; page 9, lines 9-21; page 2, lines 12-14; page 10, lines 20-21; Figures 1-3.

Claim 12 is amended to incorporate the subject matter of dependent claim 13. Claim 16 is amended to depend from claim 12. Claim 27 is amended to remove a limitation.

New claim 33 depends from claim 1 and is based on Figure 1 and the language suggested at the top of page 3 of the Official Action. New dependent claim 35 depends from claim 1 and finds support at least in claim 1 as previously filed.

It is respectfully submitted, at least for the reasons and citations provided above, that the foregoing amendments and new claims are proper and do not introduce new matter.

Formal Matters - Objections to the Claims

The Official Action objected to claims 2 and 6-8 due to various informalities.

In response, claim 2 and 7-8 are canceled as indicated above, and claim 6 is amended in a manner believed to overcome the Official Action's objection. Particularly to claim 6, it is respectfully submitted that the recitation of one abutment and one stop member is supported in the specification and drawing figures originally filed. An embodiment of the invention as disclosed may include more than one of either or both the abutment and/or stop member. However, one of skill would readily understand alternatives to perform a function of restraining the motion of the panic bar opposite the stop member and abutment. It is therefore respectfully submitted that this recitation and similar in claim 1 is proper.

Withdrawal of the objections to the claims is thereby respectfully requested.

Formal Matters – Section 112, second paragraph

The Official Action rejected claims 1, 3-6, 9-28 and 30-32 under 35 USC 112, second paragraph.

CLAIM 1.

A.

The Official Action objects to claim 1 stating that it is unclear if the invention requires a bolt; the Official Action states that the invention requires an additional recitation of a bolt, as provided in dependent claim 25.

In response, it is respectfully submitted that claim 1 is believed to be definite in its present form in view of Section 112, second paragraph.

In particular, it is respectfully submitted that one of skill in the art would readily understand the claimed recitation of "a bolt operating member" as a mechanism for operating upon a bolt, but that a bolt need not be included for the device to be made, used, sold, or comprehended. Hence, it is respectfully submitted that "a bolt operating member," with or without a bolt or, moreover, "a panic bar assembly configured to be fixed on a door," with or without a bolt, need not require a bolt in order to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. The invention, as recited, may be adapted to cooperate with a bolt already being present on the door.

For example, one of skill would readily understand that the claimed mechanism is directed to a mechanism to be provided to move a follower or spindle that may already be present in the width of a door; that is, a follower or spindle previously moved in the door of this example by a conventional lever handle that has been discarded and replaced with the present invention. Thus, a bolt as recited in dependent claim 25 is not necessary for the invention to be made, used, sold, or comprehended by one of skill in the art.

Therefore, it is respectfully submitted that the recitation of "a bolt operating member" as in claim 1 is definite in view of Section 112, second paragraph, and a bolt it appropriately claimed as a dependent claim 25.

In the event that the foregoing indefiniteness rejection in view of the foregoing reasons and the reasons set forth in the previous Amendment at page 14, first paragraph, Applicant respectfully requests the Examiner present findings of facts in support of the rejection and an explanation why the foregoing reasons and the pertinent reasons provided in the previous Amendment are not persuasive; Applicant respectfully submits that this is necessary, in view of compact prosecution, for understanding the rejection and for providing a complete response.

B.

The Official Action further objected to the recitation of "a member of profiled section" as in claim 1, stating that the recitation is unclear. The Official Action asks for disclosures in support of the recitation in the specification.

In response, claim 1 is amended, as indicated above, to recite a "member of longitudinally extending profiled section" mounted on said fixed part to pivot about a longitudinal axis. The member of longitudinally extending profiled section comprises a maneuvering portion (see elements 44, 144 of Figures 1, 5) between the longitudinal pivot axis (at 40) and a stop portion of the crash bar (e.g., 43 of Figure 1).

The member of longitudinally extending profiled section is shown, in Figures 1, 2, and 5, in sectional views. Thus, each of Figures 1, 2, and 5 show the member extending longitudinally into the page in the same direction as the longitudinal axis (e.g., element 40 of Figure 1; see also element 104 of the perspective view of Figure 3); hence, "longitudinally extending" member.

The recited member of longitudinally extending profiled section finds further support in the specification at page 1 line 34 to page 2 line 1, and the corresponding passage in the French specification at page 2, lines 4-7 disclosing "un profilé monté articulé autour dudit axe longitudinal par une portion

d'articulation," wherein the term "profilé" is particularly regarded as supporting the feature recited.

Based therefore at least on the foregoing reasons, it is respectfully submitted that the recitation of the member of longitudinally extending profiled section of claim 1 is definite and proper in view of 35 USC 112, second paragraph. It is further respectfully submitted that new independent claim 34 is also definite for at least the same reasons set forth above as to claim 1.

C.

The Official Action objected to the recitation in claim 1 of a maneuvering portion rigidly incorporated into said member of profiled section. The Official Action also objected to the recitations in claim 1 related to a lever arm of the maneuvering portion and a lever arm of a stop portion relative to the longitudinal axis.

In response, the recitations immediately foregoing have been removed (without prejudice) from claim 1. In addition, dependent claim 33 is introduced to recite this feature based on Figure 1 and the language suggested at the top of page 3 of the Official Action.

D.

The Official Action further objected to the recitation of one stop portion, stating that the drawings and specification disclose that the stop will engage two abutments, not just one.

In response, it is firstly noted that claim 1 is amended to remove this limitation, and the limitation is reintroduced as a new dependent claim 35.

It is therefore respectfully submitted that this objection has been rendered moot as to claim 1.

It is further respectfully submitted that new dependent claim 35 is proper in view of Section 112, second paragraph, and finds support in the specification and the drawing figures as originally filed. The Official Action states that the drawings and the specification disclose that the stop will engage two abutments, not just one. However, one of skill in the art would readily comprehend that the function of restraining the motion of the panic bar may be performed by other means than a stop.

For example, where the bolt operating member 5 and link 45 provide a high resistance and/or a short range of motion, the stop portion 43 may never encounter abutment 38. It is respectfully submitted that this and other embodiments where the invention would be limited to one stop and one abutment would be known to one of skill in the art. Accordingly, it is respectfully submitted that this feature as recited in dependent claim 35 is proper.

E.

Based on all the foregoing reasons, it is respectfully submitted that claim 1, as amended, is definite in view of 35 USC 112, second paragraph. It is further respectfully submitted that

new independent claim 34 is also definite in view of 35 USC 112, second paragraph for at least the same reasons as those set forth above as to claim 1.

CLAIM 3.

The Official Action rejected claim 3 under 35 USC 112, second paragraph, stating that it is unclear whether the "stop portion" recited in the claim corresponds to the "stop portion" recited in parent claim 1.

In response, claim 3 is amended in a manner believed to obviate the Official Action's rejection of indefiniteness of claim 3.

CLAIM 4.

The Official Action rejected claim 4 under 35 USC 112, second paragraph, stating that it is clear how two recited profiled sections can extend in the same direction.

In response, it is respectfully noted that claim 1 is amended with respect to the "profiled section" as indicated above, and that the aforementioned amendment and corresponding amendments to claim 4 obviate the Official Action's rejection of claim 4 for indefiniteness.

CLAIM 5.

The Official Action rejected claim 5, stating that it is unclear how the housing is entered via a slot with clearance by a longitudinal edge of the member of profile section. The Official Action stated that the drawings disclose that the

housing 34 is entered via a slot formed by elements 36 and 37 of the fixing part 3.

In response, claim 5 is amended to obviate the Official Action's rejection for indefiniteness; the amendment finds support at least at page 8 lines 25 to 27 of the specification as originally filed.

CLAIM 6.

The Official Action rejected claim 6 under 35 USC 112, second paragraph, stating that it is not understood how the housing 34 includes the stop 37.

In response, claim 6 is canceled without prejudice. The rejection of claim 6 under Section 112 is thereby believed to be rendered moot.

CLAIM 9.

The Official Action rejected claim 9 under 35 USC 112, second paragraph, stating that it is not understood how the abutment is at a free end of the housing.

In response, claim 9 has been amended in a manner believed to overcome the Official Action's rejection.

CONCLUSION AS TO REJECTIONS FOR INDEFINITENESS.

Based on the foregoing reasons, it is respectfully submitted that all of the Official Action's rejections for indefiniteness have been overcome. Accordingly, withdrawal of all the rejections under 35 USC 112, second paragraph is respectfully solicited.

Substantive Issues - Section 102 and 103

The Official Action rejected claims 1, 3-6, 10,25-28 and 30-32 under 35 USC 102(b) as being anticipated by Hoffman et al. (US 6,354,638; "HOFFMAN").

The Official Action rejected claims 9, 12 and 18-24 under 35 USC 103(a) as being unpatentable over HOFFMAN.

The Official Action rejected claim 11 under 35 USC 103(a) as being unpatentable over HOFFMAN in view of Yulkowski (US 3,969,845; "YULKOWSKI").

In response, it is respectfully submitted that the claims are amended, as indicated above. It is respectfully submitted that neither of HOFFMAN nor YULKOWSKI, individually or in combination, teach or suggest the invention as recited in amended independent claim 1 and new independent claim 34.

For example, independent claims 1 and 34 recite a crash bar comprising a longitudinally extending profiled section that pivots between an idle position remote from the door and a working position close to the door, wherein the crash bar is configured to activate said bolt operating member in said working position.

On the contrary, the device disclosed by HOFFMAN is configured to operate in an opposite manner. HOFFMAN teaches a device wherein the working position for activating the release of the locking mechanism is remote from the door (see, e.g., Abstract, lines 11-15).

Similarly, HOFFMAN discloses "If the hand lever 13 is pressed back against the door leaf 10 or back wall 12 of the box-shaped component 11, the drive lever performs corresponding reverse travel so that the locking rod is returned to its locking position," (column 4, lines 16-19, emphasis added).

Therefore, HOFFMAN fails to teach the structure recited in independent claim 1 and 34 as presented. Further, YULKOWSKI fails to present a teaching, suggestion, or motivation to overcome this deficiency of HOFFMAN.

Accordingly, it is respectfully submitted that claims 1 and 34 are patentable over HOFFMAN and YULKOWSKI.

It is further respectfully submitted that claims depending from independent claim 1 are patentable at least for depending from a patentable parent claim.

Withdrawal of the rejection over Sections 102 and 103 is therefore respectfully requested.

From the foregoing, it will be apparent that Applicant has fully responded to the July 15, 2010 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, the Examiner is invited to telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that

further discussion of this case would be helpful in advancing prosecution.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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